

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

July 24, 2014

- I. **CALL TO ORDER** – The meeting was called to order at 1:33 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Will Berkley; Patrick Brewer; Mike Cravens; Karen Mundy; Mike Owens, Chair; Frank Penn; Carolyn Plumlee; Carolyn Richardson; Joseph Smith; and William Wilson (arrived at 1:45 p.m.). Absent was David Drake.

Planning staff members present: Chris King, Director; Barbara Rackers; Traci Wade; Tom Martin; Jim Duncan; and Stephanie Cunningham. Other staff members present were Tracy Jones, Department of Law; Tim Queary, Urban Forester; Greg Lengal, Division of Fire and Emergency Services; and Casey Kaucher, Division of Traffic Engineering.

II. **COMMISSION ITEMS**

- A. **RESOLUTION FOR FORMER PLANNING COMMISSION MEMBER** – Chairman Owens stated that, at this time, the Commission and the staff would like to formally express their sincere appreciation to Carla Blanton for her dedication and service to the Urban County Planning Commission and the citizens of Lexington-Fayette County. He read for the record the following resolution, signed by all the Commission members:

“Whereas, we, the members of the Lexington-Fayette Urban County Planning Commission and staff, wish to acknowledge the fulfillment of the term of office of Carla Blanton from the Planning Commission; and whereas, we wish to take this opportunity to recognize Ms. Blanton for her valuable service to this Commission from June 24, 2010, to June 30, 2014, having served on the Commission’s Zoning Committee for the entirety of her Planning Commission term; and whereas, Ms. Blanton has been influential in the formation of the 2013 Comprehensive Plan, including its adopted Goals & Objectives; the text amendments encouraging and facilitating Infill & Redevelopment; clarifying the regulations for recreational uses, and various other amendments to the Zoning Ordinance; and whereas, Ms. Blanton has consistently shown a deep concern for the citizens of Lexington-Fayette County, as reflected in her decisions regarding land use and development proposals reviewed by this Commission; and whereas, the members of this Commission and the staff feel that the service and guidance contributed by Ms. Blanton will be greatly missed by this body. Now, therefore, be it resolved: we, the members of the Commission and its staff, do hereby express our gratitude to Ms. Blanton for her service to this Commission and the citizens of Lexington-Fayette County; and we, the Lexington-Fayette Urban County Planning Commission and staff, do hereby wish for Ms. Blanton much happiness and continued success, and ask that she continue to provide valuable guidance; and be it further resolved that a copy of this resolution be presented to Ms. Blanton and also spread upon the minute book of this body. Dated at Lexington, Kentucky, this 24th day of July, 2014.”

Ms. Blanton stated that she was very appreciative of the opportunity to serve with so many dedicated public servants, from the Planning Commissioners who volunteer their time to make the community a better place, to the fabulous Planning staff, who work hard every day to make the planning process one that has integrity. She said that planning and zoning are important everywhere, but nowhere more important than in a community that values its land as much as Lexington-Fayette County does. She received an ovation from those in attendance.

- III. **POSTPONEMENTS AND WITHDRAWALS** – No such items were presented.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, July 3, 2014, at 8:30 a.m. The meeting was attended by Commission members: Carolyn Plumlee, Joe Smith, Karen Mundy, Frank Penn and Mike Owens. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Dave Jarman, Denise Bullock, Barbara Rackers, Traci Wade and Kelly Hunter, as well as Tracy Jones, Department of Law, and Greg Lengal and Joshua Thiel, Division of Fire and Emergency Services. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, July 3, 2014, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Mike Cravens, David Drake, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

* - Denotes date by which Commission must either approve or disapprove request.

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
 - The petitioner concurs with the staff recommendations
 - Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. MAR 2014-12: KROGER LIMITED PARTNERSHIP 1 ZONING MAP AMENDMENT & ARCADIA INVESTMENTS, LOTS 3, 4 & 5 ZONING DEVELOPMENT PLAN

- a. MAR 2014-12: KROGER LIMITED PARTNERSHIP 1 (8/31/14)* - petition for a zone map amendment from a Neighborhood Business (B-1) zone to a Planned Shopping Center (B-6P) zone, for 13.581 net (14.029 gross) acres, for property located at 1590, 1600 & 1610 Leestown Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. The petitioner has requested a Planned Shopping Center (B-6P) zone for the subject property in order to expand the existing Kroger store within this shopping center.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommended: **Approval**, for the following reasons:

1. The requested Planned Shopping Center (B-6P) zone is far more appropriate than the existing Neighborhood Business (B-1) zone, which is less appropriate for this 13-acre shopping center, for the following reasons:
 - a. While the two zones permit the same types of commercial uses, the B-6P zone promotes a more unified development for a shopping center, rather than stand-alone neighborhood businesses. The subject property is already developed in a unified approach, including shared off-street parking, stormwater management and an entrance sign.
 - b. A shopping center has occupied the subject property since the late 1980s and will continue to provide goods and services to this portion of the community. The grocery store also meets a need for this portion of the Urban Service Area, since it is the only such store between Old Frankfort Pike and Newtown Pike, a continually growing area.
 - c. The development meets the locational standards in Article 12-7 of the Zoning Ordinance for a community shopping center and is developed in manner that is consistent with the B-6P zone requirements for setbacks, lot coverage and off-street parking.
2. The requested B-6P zone is supported by the Goals and Objectives of the 2013 Comprehensive Plan. Specifically, the development serves the surrounding neighborhoods in a compact and contiguous manner within the Urban Service Area, which upholds the Urban Service Area concept (Theme E, Goal #1.Obj. A).
3. This recommendation is made subject to approval and certification of ZDP 2014-53: Arcadia Investments, Lots 3, 4 & 5 (aka Meadowthorpe Manor), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

* - Denotes date by which Commission must either approve or disapprove request.

- b. ZDP 2014-53: ARCADIA INVESTMENTS, LOTS 3, 4 & 5 (AKA MEADOWTHORPE MANOR KROGER) (8/31/14)* - located at 1590, 1610 and 1660 Leestown Road. **(The Roberts Group)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-6P; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Document notification of neighborhood association per development plan requirements.
7. Clarify square footage proposed for Kroger store expansion.
8. Clarify whether new Kroger store entrance as shown on plan is to be enclosed, or a canopy, and revise site statistics accordingly.
9. Resolve pedestrian access into and through the site.
10. Clarify number and location proposed for (rear) loading docks.

Zoning Presentation: Ms. Wade presented the staff's zoning report, briefly orienting the Commission to the location of the subject property on the west side of Leestown Road, a short distance inside New Circle Road. To the northwest of the subject property is the Townley Center development; to the southwest is a large area of land zoned for industrial use along Lisle Industrial Road, including the LFUCG sanitary sewer treatment plant; to the northeast is the Meadowthorpe neighborhood; and along Leestown Road, are a number of other commercial uses, with a mixture of B-3, B-1, and P-1 zoning.

Ms. Wade stated that the petitioner is proposing to rezone the subject property in order to expand the existing shopping center, in which Kroger serves as the anchor store. Displaying an aerial photograph of the property, she noted the location of the Kroger store, as well as the two existing outlots along Leestown Road, which are not proposed for rezoning. The proposed expansion of the shopping center would allow for the Kroger store to be increased in size from approximately 46,000 square feet to slightly less than 80,000 square feet. The existing B-1 zone does not permit a single business to exceed 60,000 square feet, so the Kroger store would not be able to expand as proposed under the existing zoning.

Ms. Wade said that the proposed redevelopment will allow Kroger to increase the number of items for sale in the store, similarly to the redevelopments of most of the other Kroger stores in the Lexington-Fayette County area in recent years. The proposed B-6P zone permits the same uses as the B-1 zone, and would be much more in character with the existing development pattern in the vicinity of the subject property. The Zoning Ordinance outlines locational criteria for the B-6P zone; the staff reviewed the criteria, and believes that the subject property sufficiently meets those requirements. In addition, the Zoning Ordinance requires that the shopping center be of an adequate size to serve the immediate area, which the staff also believes would be met with the proposed redevelopment of the Kroger store. Ms. Wade stated that the staff believes that rezoning the subject property to B-6P is supported by the 2013 Comprehensive Plans Goals & Objectives, specifically Theme E, Goal 1, Objective A. She said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, using a rendered copy of the plan to note the proposed location of the addition to the rear of the Kroger store. He also pointed out the existing large stormwater easement and basin to the rear of the shopping center, and noted that the subject property is bordered by significant treelines along both the northern and southern property lines.

Mr. Martin stated that the petitioner had already addressed many of the conditions originally recommended for approval of this plan, including documentation of their prior notification to the Meadowthorpe Neighborhood Association. He added that the petitioner had met with representatives of the neighborhood association and had gained their support for the proposed rezoning. The petitioner also clarified the square footage of the proposed addition, which will allow the building to remain just under the required threshold for the Big-Box Design Guideline requirements. There was some concern about pedestrian facilities in this older shopping center area, but the petitioner is working on a solution to improve pedestrian access both to and through the site. Mr. Martin stated that the Subdivision Committee recommended approval of this request, subject to the conditions as listed on the agenda.

Petitioner Representation: Bruce Simpson, attorney, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations, and he requested approval.

Citizen Comment: There were no citizens present to comment on this request.

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Zoning Action: A motion was made by Mr. Brewer, seconded by Mr. Berkley, and carried 9-0 (Drake and Wilson absent) to approve MAR 2014-12, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Brewer, seconded by Mr. Berkley, and carried 9-0 (Drake and Wilson absent) to approve ZDP 2014-53, subject to the 10 conditions as listed on the agenda.

B. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **ZOTA 2014-3: AMENDMENT TO ARTICLE 15-5(a) FOR HANDICAP RAMPS** – petition for a Zoning Ordinance text amendment to Article 15-5(a) to further the goals of the Americans with Disabilities Act by permitting handicap accessible ramps for mobility purposes when located in the required front, side or rear yards of any zone.

REQUESTED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: (Note: Underlined text indicates an addition to the current Zoning Ordinance.)

**GENERAL REGULATIONS FOR HEIGHTS,
YARDS, WALLS, FENCES, PROJECTIONS, ACCESSORY STRUCTURES and
INFILL/REDEVELOPMENT CONSTRUCTION**

15-5 PROJECTIONS

- 15-5(a) COVERED PORCHES, STAIRWAYS, TERRACES** - Covered porches, stairways, terraces or other similar features, the floor level of which is not over three (3) feet above the established grade and does not extend above the level of the first floor of the building, when open and unenclosed, may project into a required front, side or rear yard no more than eight (8) feet; provided that such covered porches, stairways, terraces, or other similar features conform to the provisions of Section 15-5(d). Ramps providing handicap access for mobility purposes shall be permitted to extend into any required yard to the extent necessary to further the goals of the Americans with Disabilities Act.
- 15-5(b) OUTSIDE STAIRWAYS** - Outside stairways may extend up to (3) feet into any required side yard, provided the projection is at least three (3) feet from all lot lines; however, they may not extend more than five (5) feet into any required rear yard.
- 15-5(c) CHIMNEYS AND ORNAMENTAL FEATURES** - Flues, belt courses, leaders, sills, lintels, ornamental features, cornices, eaves, gutters and the like, may not extend more than twenty-four (24) inches into any required yard. Chimneys and pilasters may extend up to twenty-four (24) inches into any required yard, provided they are at least three (3) feet from all lot lines.
- 15-5(d) MAXIMUM PROJECTION** - Notwithstanding any other provision of this section, no projection, as listed above, shall extend into any required side yard more than one-half (½) the width of such yard, nor within ten (10) feet of the front lot line, within five (5) feet of the rear lot line, nor within three (3) feet of any accessory building. Such limitations shall not apply to terraces and steps inside yards, or to a loading dock or tailboard in connection with an industrial siding.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommended: **Approval** for the following reason:

1. The proposed text amendment is a timely change to the Zoning Ordinance and may lessen the time required to secure a building permit in some cases for the installation of a handicap-accessible ramp for the purposes of mobility. The proposed change will help to meet the intent of the Americans with Disability Act (ADA) and its amendments.

Staff Presentation: Ms. Wade presented the staff's report on this proposed text amendment, which was initiated by the Planning Commission in May of 2014. She stated that, currently, the language of the Zoning Ordinance allows an extension of a covered porch, stairway, or terrace—which has been interpreted to include ramps—into a required front, side, or rear yard, up to eight feet. In some situations in which such a projection had been added, any later attempt to add a ramp for mobility purposes would require a referral to the Board of Adjustment for a dimensional variance. The proposed text amendment would eliminate the necessity for such a variance.

Ms. Wade displayed two photographs of accessibility ramps, one of which had been added to a residential structure, and one to a commercial structure. She noted that the proposed amendment would apply to all zones, allowing any ramp that would project into a required yard, without the need for a variance. The staff believes that the proposed change will further the goals of the Americans with Disabilities Act, which is considered by the Department of Justice as “one of the nation’s most comprehensive pieces of civil rights legislation, that prohibits discrimination and guarantees that people with

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disabilities have the same opportunities as anyone else to participate in the mainstream of American life.” Ms. Wade stated that the staff and the Zoning Committee recommended approval of this proposed text amendment, for the reason as listed in the staff report and on the agenda.

Commission Questions: Mr. Penn asked if a building permit is necessary to install an accessibility ramp on a residential structure. Ms. Wade responded affirmatively. Mr. Penn asked if the ramp would be considered as a temporary or permanent structure. Mr. King responded that a ramp could be considered temporary or permanent; but, particularly in commercial uses, they are typically considered as permanent.

Mr. King stated that the staff had found that, particularly in older areas of the county, when the standard yard requirements were applied, it was difficult to fit a ramp into the required yard. He said that he knew from personal experience that, when such a ramp is needed, the property owner does not always have time to stop and wait for a Board of Adjustment meeting to obtain a variance. Mr. King added that the staff had found no opposition to the proposed text amendment, and that they believe that ramps will become more commonplace in the future as the population ages.

Mr. Penn asked if a permit would be necessary to remove a ramp. Mr. King responded that he was not sure if a demolition permit would be required for a ramp.

Action: A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 10-0 (Drake absent) to approve ZOTA 2014-3, for the reason provided by staff.

VI. COMMISSION ITEMS

- A. PFR 2014-4: FAYETTE COUNTY PUBLIC SCHOOLS** – a Public Facility Review for renovation and expansion of Squires Elementary School, located at 3337 Squire Oak Drive (aka 3520 Marrs Way).

SUMMARY FINDINGS: There are no Goals, Objectives or text of the Comprehensive Plan in opposition to the proposed expansion/renovation of the elementary school. Although there is no land use recommendation associated with the 2013 *Comprehensive Plan*, the Land Use Element of the 2007 Plan recommended that the property be used for Public Education purposes, recognizing its historic use as a public elementary school and desiring for it to remain so.

The Comprehensive Plan (text, Goals, and Objectives) provides a great level of support for the project, as does *Destination 2040*.

STAFF RECOMMENDATION:

1. Even though the Fayette County Public School System is exempt from Zoning Ordinance requirements, it must still comply with the State Building Code requirements. It is therefore recommended that any applicable permits be obtained from the Division of Building Inspection prior to commencing construction/remodeling of the school building and site.

It is also recommended that a plan for storm water management be submitted to, and accepted by, the Division of Engineering prior to issuance of any permits for construction, particularly due to the fact that there is a creek and associated FEMA flood hazard area within close proximity to and downhill from the property, with residences just on the other side of the creek.

Staff Presentation: Ms. Rackers presented the staff's report on the requested Public Facility Review for the renovation and expansion of Squires Elementary School. She oriented the Commission to the location of the school, noting that Man O' War Boulevard is located to the west; Buckhorn Drive is to the north; Delong Road is to the east; and Armstrong Mill Road is to the south of this location. The property is split-zoned A-U, A-R, and R-1C, and it is surrounded primarily by single-family residences in the Squires Road area.

Ms. Rackers stated that the 2007 Comprehensive Plan recommended the property for Public Education land use, which reflected the existing use as a school. As part of their review of this request, the staff referred to the 2013 Comprehensive Plan, as well as the *Destination 2040* project, which was referenced in one of the applicable Goals & Objectives. All of the pertinent information in those documents supports the proposed renovation and expansion.

Ms. Rackers said that Squires Elementary School, which was built in 1988, is like an "island" in the middle of a large residential area. The plans for the proposed renovation and expansion have been completed, with an estimated construction start date of October 2014, and completion by August 2016. The school will remain occupied during all four phases of the proposed construction, using a 16-classroom multi-plex building. The proposed renovation and addition of approximately 19,000 square feet of building space will include an expanded kitchen; additional administrative space; a library/media center; preschool area; classrooms; entry vestibules; and an elevator, because the building is on two levels. Referring to the site plan for the property, Ms. Rackers noted the existing footprint of the school, as well as the proposed additions. The project will be ADA compliant, and will include site improvements such as new paving; expanded and reconfigured parking areas; a bus lane; and improved entries and site circulation.

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Ms. Rackers stated that the Delong Tributary of the East Hickman Creek runs along the northeastern property line, and has a FEMA floodplain associated with it. Because the site slopes downward toward the residential properties on the other side of the creek, the staff is recommending that FCPS provide a stormwater management plan, to the acceptance of the Division of Engineering, as they proceed through the building permit process. FCPS proposes to use permeable pavers in the new parking area, which should help to mitigate any potential stormwater issues. There have been no serious flooding problems along this portion of East Hickman Creek, but the staff believes it is important to note that the school construction project should not cause any new flooding issues in this area.

Ms. Rackers said that one of the goals of Fayette County Public Schools is to become a world-class school system by 2020. One of the ways to achieve that goal is to provide safe, comfortable, and aesthetically pleasing state-of-the-art facilities for its students. The Destination 2040 project refers to FCPS as "the finest public school system in the state." That project report provided support for the goals of the school system, as well as a series of action plans, which refer to FCPS as a "primary initiator." Ms. Rackers read the following statements from the 2013 Comprehensive Plan:

"A desirable community must possess quality public and semi-public services, including fire and police protection; public schools; libraries and hospitals; parks and recreation; and utilities."

"In all instances, particularly where public accommodation is crucial, community facilities should be accessible to all citizens."

Ms. Rackers stated that the staff is recommending that the Planning Commission find this request to be in compliance with the 2013 Comprehensive Plan, with the two findings as listed on the agenda.

Fayette County Public Schools Representation: Chris Howard, Carman and Associates, stated that, even with the addition of the new construction area and new and reconfigured parking, the subject site would have less impervious surface upon completion of the project. That reduction in impervious surface will be due primarily to the use of permeable pavers, which is also the reason for the site plan's lack of a detention basin.

Citizen Comment: There were no citizens present to comment on this matter.

Action: A motion was made by Mr. Penn, seconded by Mr. Cravens, and carried 10-0 (Drake absent) to find that PFR 2014-4 is in compliance with the 2013 Comprehensive Plan.

C. **CANCELLATION OF WORK SESSION** – The staff determined that no action was needed for this item, since the Commission did not originally schedule a work session for July 31, 2014.

D. **CLOSED SESSION** - Mr. Owens stated that the Planning Commission needed to enter closed session in order to discuss a matter of litigation, and requested a motion to do so.

Action: A motion was made by Mr. Cravens, seconded by Ms. Plumlee, and carried 10-0 (Drake absent) to enter into closed session, pursuant to KRS 61.8101C, for the purpose of discussing pending litigation. The Commission entered closed session at 2:07 p.m. The Commission returned from their closed session at 2:41 p.m.

VII. **STAFF ITEMS** – No such items were presented.

VIII. **AUDIENCE ITEMS** – No such items were presented.

IX. **MEETING DATES FOR August, 2014**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	August 7, 2014
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	August 7, 2014
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	August 14, 2014
Planning Commission Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	August 21, 2014
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	August 27, 2014
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	August 28, 2014

X. **ADJOURNMENT** – There being no further business, Chairman Owens declared the meeting adjourned at 2:42 p.m.